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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,592	12/27/2004	Martin Posch	AT02 0042 US	2620

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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
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EXAMINER

NGHIEM, MICHAEL P

ART UNIT	PAPER NUMBER
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2863

NOTIFICATION DATE	DELIVERY MODE
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12/16/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

Office Action Summary	Application No. 10/519,592	Applicant(s) POSCH ET AL.	
	Examiner MICHAEL P. NGHIEM	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2008 and 31 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Amendment filed on March 31, 2008 has been considered.

Petition

The petition, filed on October, 23, 2008, for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) is granted on November 17, 2008.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 23, 2008 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 6, are the "test information" and the "data sector-specific test memory areas" the same features or are they related to each other?

The remaining claims are also rejected under 35 U.S.C. 112, second paragraph, for being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takayuki (JP 05-265866) in view of Proidl (US 2003/0043896) and Furuhashi (US 6,800,894).

Regarding claims 1 and 6, Takayuki discloses a data carrier comprising a circuit (Fig. 1), which circuit comprises the following components, namely

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- first memory means (4), which are designed for modifiable storage of information (paragraph 0002, line 18), the information being modifiable by an ambient parameter of the circuit (data alteration from outside, paragraph 0002, line 20), which ambient parameter acts on the first memory means (paragraph 0002, lines 19-20), characterized in that the first memory means comprise a test memory area (6), which is provided for storing test information (Fig. 1), and

- second memory means (2) are provided which are designed for unmodifiable storage of reference information (data in built-in ROM 2, paragraph 0002, line 3), and

- detection means (check means, paragraph 0002, line 2) are provided, to which the test information which may be read out from the first memory means and the reference information which may be read out from the second memory means may be supplied and which are designed (Constitution, lines 2-5), with the aid of the read-out test information (data in 4, paragraph 0002, line 3) and the read-out reference information (data in 2, paragraph 0002, line 3), to detect a modification of the originally stored test information (check if data are fixed in advance or not, Constitution, lines 8-9) brought about by an ambient parameter (from outside, paragraph 0002, line 20) acting on the first memory means (paragraph 0002, lines 18-20).

Regarding claims 2 and 7, Takayuki discloses comparison means for comparing the stored test information with the stored reference information (Constitution, lines 2-5).

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Regarding claims 3 and 8, Takayuki discloses enabling means are provided for the purpose of irreversibly enabling functioning of the detection means (checking is irreversible once it has been performed), and the detection means are designed to cooperate with the enabling means (check means are deemed to be enabled to perform checking, Constitution, lines 2-5).

Regarding claims 4 and 9, Takayuki discloses that the detection means are designed to generate and output an indicator signal (indicates coincident or not, Constitution, lines 4-5), which indicator signal is provided to indicate a modification of the originally stored test information brought about by an ambient parameter acting on the first memory means (check if elements are not coincident, Constitution, lines 2-5, 12-13) and the circuit is designed to influence its operating behavior as a function of the indicator signal (Constitution, lines 13-14).

Regarding claims 5 and 10, Takayuki discloses that the test information is formed of at least two bits (data in 4, Fig. 3, e.g. data 11, 22, C8), which at least two bits differ from one another with regard to their logical value (e.g. data C8 is 11001000).

Regarding claim 11, Takayuki discloses that the circuit takes the form of an integrated circuit (Fig. 1 shows CPU, ROM's, PROM's, RAM's).

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Regarding claims 12 and 13, Takayuki discloses that the detection means generates and outputs an indicator signal (indicates coincident or not, Constitution, lines 4-5) that provides a perpetual indication (indication of status, e.g. coincident indication, remains until status changes, e.g. changes to not coincident indication) of the modification of the originally stored test information (check if elements are not coincident, Constitution, lines 2-5, 12-13).

However, Takayuki does not disclose the following:

- regarding claims 1 and 6, the first memory means comprises multiple data sectors and wherein the test memory area comprises data sector-specific test memory areas within each of the multiple data sectors.
- regarding claim 6, the ambient temperature is of a short-wave light, an electromagnetic field, and a high temperature.
- regarding claims 14 and 16, the ambient parameter deletes the test information.
- regarding claims 15 and 17, the ambient parameter renders the test information unusable.

Nevertheless, Proidl discloses memory means comprising multiple data sectors (data sectors, column 24, lines 1-2) and wherein the test memory area comprises data sector-specific test memory areas within each of the multiple data sectors (fifty eight data sectors comprising useful test data, paragraph 0024, lines 6-9) for the purpose of testing for data errors (paragraph 0024, lines 8-9). It would be obvious to provide each

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of the data sectors with the test data specific to the data sector for improved accessibility; thus, improved testability.

Furuhata discloses that data in ROM's and EPROM's can be erased by ultraviolet light (column 6, lines 15-20).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide Takayuki with data sectors, each with test data specific to the data sector for the purpose of improved testability as disclosed by Proidl and recognize that the data in the ROM/EPROM of Takayuki could potentially be erased and damaged by ultrasonic light as disclosed by Furuhata. Furuhata discusses the well-known potential problems of ROM/EPROM chips being erased and/or damaged by ambient parameters such as short-wave light, e.g., ultraviolet light.

Allowable Subject Matter

Claims 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons For Allowance

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The **combination** as claimed wherein a data carrier comprising a circuit comprising the data sector-specific test memory areas are located in an area of each data sector that is designed for access control (claims 18, 19) is not disclosed, suggested, or made obvious by the prior art of record.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (571) 272-2277. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael P. Nghiem/

Primary Examiner, GAU 2863

December 8, 2008